

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

FTRU San Antonio LLC,

Plaintiff,

v.

Kaplan Higher Education, LLC,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 5:19-cv-00638-OLG

**PLAINTIFF FTRU SAN ANTONIO LLC'S AGREED REPORT ON  
ALTERNATIVE DISPUTE RESOLUTION**

TO THE HONORABLE JASON PULLIAM:

Pursuant to Local Rule CV-88, and the Court's Scheduling Order entered herein, Plaintiff FTRU San Antonio LLC respectfully submits the following agreed report on alternative dispute resolution:

**I. SETTLEMENT NEGOTIATIONS**

Because the litigation in this matter has just begun, settlement negotiations are ongoing. As each side develops its own case, the parties agree that they will seriously discuss settlement at the appropriate time.

**II. REPRESENTATIVE AND APPROPRIATE METHOD OF ADR**

The undersigned attorney, Michael W. O'Donnell is responsible for settlement negotiations on behalf of Plaintiff. Reid S. Manley and Joshua Threadcraft, Burr & Forman, LLP, 420 N. 20th Street, Suite 3400, Birmingham, Alabama 35203 represents the Defendant Kaplan Higher Education, LLC and Joshua Threadcraft is responsible for settlement negotiations on its behalf. Both parties agree that mediation is the appropriate form of ADR to possibly resolve this dispute. All parties have been informed of the ADR procedures in this district.

### III. MEDIATOR

The parties have agreed to use the following court approved mediator to mediate this matter:

Donald R. Philbin, Jr.  
Donald R. Philbin, Jr., P.C.  
208 Luther Drive  
P.O. Box 12367  
San Antonio, Texas 78212

The parties intend to conduct mediation January 16, 2019 in an effort to reach an early resolution of this matter. At that time, the parties will inform the Court whether the matter was settled or not. Each party has agreed to bear their own cost for the mediator's fee.

Dated: October 16, 2019

Respectfully submitted,

*/s/ Michael W. O'Donnell*

---

Michael W. O'Donnell  
State Bar No. 24002705  
mike.odonnell@nortonrosefulbright.com  
Aimeé Vidaurri  
State Bar No. 24098550  
aimee.vidaurri@nortonrosefulbright.com  
111 W. Houston Street, Suite 1800  
San Antonio, TX 78205  
Telephone: (210) 224-5575  
Facsimile: (210) 270-7205

COUNSEL FOR PLAINTIFF FTRU SAN ANTONIO  
LLC

**CERTIFICATE OF SERVICE**

On October 16, 2019, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served a copy of the foregoing on the following via electronic mail:

Reid S. Manley  
BURR & FORMAN, LLP  
420 N. 20<sup>th</sup> Street, Suite 3400  
Birmingham, Alabama 35203  
Telephone: (205) 251-3000  
Facsimile: (205) 458-5100  
Email: [rmanley@burr.com](mailto:rmanley@burr.com)  
*Attorney for Defendant*

/s/ Michael W. O'Donnell

Michael W. O'Donnell